

personally asked for the plaintiff's resignation, he personally called the plaintiff and apologized for asking for her resignation, he personally called the plaintiff and invited her back to the Department of Agriculture, and he personally met with the plaintiff to discuss both his apology and his invitation. *See id.* at 74. The Secretary's extraordinary level of personal involvement in the plaintiff's wrongful termination might well constitute the kind of extraordinary circumstances necessary to overcome the high-ranking-official immunity from a deposition. But there is nothing even remotely close to those facts in this case.

2. In an attempt to manufacture extraordinary circumstances, FFRF asserts that Governor Abbott "communicated directly" with the Executive Director of the State Preservation Board. FFRF Br. in Opp. 9. FFRF's only alleged source for that assertion is the deposition of Robert Davis, who serves as the Board's Events and Exhibits Coordinator. *See id.* But Mr. Davis said no such thing. His entire deposition transcript is attached to this reply as Exhibit A. And the very most Mr. Davis said is "I wouldn't know" what (if any) role the Governor played. Davis Dep. 30:15, 19; 31:2.

3. Finally, FFRF now has made clear that it wants to depose both the Governor personally *and* his Office pursuant to Rule 30(b)(6) before completing any written discovery. *See Exhibit B*. Indeed, FFRF's Rule 30(b)(6) notice demands that the Governor's Office proffer a witness on two weeks' notice who can testify on *31 topics*, many of which have nothing at all to do with the Governor's Office. *See Exhibit C*. FFRF's overreach removes any doubt, to the extent any existed, that these depositions are more focused on harassment than fact development.

CONCLUSION & PRAYER

For all of these reasons, the Court should enter a protective order preventing the deposition of Governor Abbott.

Dated this 1st day of May, 2017.

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CERTIFICATE OF CONFERENCE

The movant certifies that he, through his attorney, Assistant Attorney General Anne Marie Mackin, has endeavored to resolve this matter out of Court.

/s/Anne Marie Mackin
Assistant Attorney General

CERTIFICATE OF SERVICE

I hereby certify that, on this the 1st day of May, 2017, a true and correct copy of the foregoing was filed electronically with the Court, causing electronic service upon all counsel of record.

/s/Anne Marie Mackin
Assistant Attorney General